

The following message was received from His Excellency the Governor:

EXECUTIVE OFFICE,

Austin, Texas, March 14, 1891.

To the Honorable Senate of the Texas Legislature:

I have received, considered and am constrained to say that I disapprove Senate bill No. 245, entitled "An act to incorporate the city of Denison, in Grayson county, Tex.; to fix the boundaries thereof, and to provide for its government and the management of its affairs," passed by the present Legislature less than ten days ago.

Therefore, I hereby respectfully return it to your honorable body, where it originated, with the following as my reasons for doing so:

By the last census Denison was shown to contain between 10,000 and 11,000 inhabitants. The act under consideration is for the purpose of incorporating that city under article 11, section 5, of the State constitution.

It is a voluminous bill, containing 194 sections and seeks to delegate to the city many extraordinary powers of government which no municipal corporation should ever be allowed to possess.

Without adverting to all the points which may be raised against the charter possibly it will be sufficient to bare my objections to its passage among others on two grounds:

First. That the act is unconstitutional in that the legislature seeks to confer upon the city government a greater power of taxation than authorized by the organic law.

Second. That the other powers conferred by the act upon the city portend evil to and possible oppression of the citizens, which the state government should not encourage, but prevent.

In support of the first proposition your attention is invited to section 5, article 11 of the constitution, which gives the legislature the power by special act to grant charters to cities having more than 10,000 inhabitants, wherein among other things it says: "But no tax for any purpose shall ever be levied for any one year, which shall exceed two and one-half per cent of the taxable property of such city." There is no other constitutional provision in conflict with, or that modifies this restriction. It is therefore the supreme law on the subject.

By sections 120 and 121 of the proposed charter, the city is authorized on special conditions to levy and collect general and special taxes to the amount of three per cent of the taxable values within the corporate limits. Should the legislature itself attempt to impose such a tax on the people in that territory, even by their consent, it could not do so under the constitution; and that which it has no power to do, it cannot delegate to others.

It may be contended, with some plausibility, that the city authorities would not exercise an unconstitutional power. Possibly this is so, but history and experience admonish us that conferring unconstitutional powers in the hope that they may not be exercised is never the method by which the rights and liberties of the people are preserved, though it is the accustomed rule by which free institutions are destroyed. By the legislative act there is an implied construction of the constitution which would at least afford some warrant for levying the full amount of taxes therein named, should the city council feel so disposed.

Municipal corporations, as well as other taxing powers, when unrestrained by legal or constitutional restrictions, are never lacking for excuses to lay on burdens as long as the masses will stand them. It is at least safe not to experiment with such chances.

Add to the three per cent, this charter authorizes to be levied, the state and county taxes (which must also be laid upon the same property), and it will be perceived the peril that the people of that territory would be in if it becomes a law. For them it is fortunate to have a constitutional shield.

As to the other objections to the charter, your attention is respectfully drawn to the facts that by it the corporate limits proposed for Denison are made to include sixteen square miles; that the city council is given absolute power to make ordinances and to have property assessed; to determine the grade, class and cost of streets and sidewalks; to impose upon the owners of the abutting property the whole expense incurred in improving the latter, and to enforce liens in favor of the city to pay it. That it also gives the city the right to issue bonds and incur indebtedness to an excessive amount for various purposes and adds the adjacent farms, orchards, gardens, and other property for two miles each way from its center to help pay them.

That peculiar exemptions are given the city from damages done the citizens by its negligence, and that actions therefor are limited to a much shorter period than provided by statute in like cases. That a city court is created and given power to try all criminal cases now within the jurisdiction of the mayor, justice of the peace and county judge; that appeals from convictions therein are denied when the fines are less than twenty dollars, and then they can only be taken from the city court directly to the court of appeals; and that, among the very many other grants, the charter declares the provisions of the act, in so far as they may conflict with it, shall be held to supercede the State law.

With such a charter as this going forth in Texas as a precedent, lodging such extraordinary taxing power in a municipal corporation, changing, as it does, the regular order of our judicial system, and giving it superiority over the state law in questions of conflict, there can be no difficulty in portraying the future condition of our country should it be permitted to stand. Doubtless other cities would claim the right to like privileges, and the legislature could not, with consistency, deny them an equal right to them. It is perhaps best, therefore, to call a halt. If such a charter is granted, and others of like character should follow, we may expect in a few years that our cities, in parting from their simpler forms of government, intended for the public good, will become centers of power controlled by the few who lay the mailed hand of oppression upon the many through the insidious taxing power to support a reign of pomp and splendor. In such municipalities will be found the aggregation of squalid poverty, from whose circles will spring the the worst forms of anarchy and communism to overthrow their legalized oppressors. In times of prosperity and peace, prudence and wisdom demand that the avenues through which the vitals of our social fabric may be reached shall be well guarded. There can be no safer sentinel for that service than economy; and the first place to station it is over the cities.

With much respect I beg to express the hope that on further consideration the good people of Denison may be protected at your hands from the iniquities that such a charter would in time impose upon them.

J. S. HOGG, Governor of Texas.